



This document is scheduled to be published in the Federal Register on 03/01/2013 and available online at <http://federalregister.gov/a/2013-04791>, and on [FDsys.gov](http://FDsys.gov)

<NOTICE>

<PREAMB>

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC462

Incidental Taking of Marine Mammals; Taking of Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of Letters of Authorization (LOA).

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that NMFS has issued one-year LOAs to take marine mammals incidental to the explosive removal of offshore oil and gas structures (EROS) in the Gulf of Mexico.

DATES: These authorizations are effective from February 27, 2013 through July 19, 2013.

ADDRESSES: The application and LOAs are available for review by writing to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3235 or by telephoning the contact listed here (see FOR FURTHER INFORMATION CONTACT), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison,  
Office of Protected Resources, NMFS, 301-427-8401.

SUPPLEMENTARY INFORMATION:

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 et seq.) directs the Secretary of Commerce (who has delegated the authority to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term “take” means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill any marine mammal.

Authorization for incidental taking, in the form of annual LOAs, may be granted by NMFS for periods up to five years if NMFS finds, after notice and opportunity for public comment, that the total taking over the five-year period will have a negligible impact on the species or stock(s) of marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat (i.e., mitigation), and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating rounds, and areas of similar significance. The regulations also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to EROS were published on June 19, 2008 (73 FR 34875), and remain in effect through July 19, 2013.

For detailed information on this action, please refer to that Federal Register notice. The species that applicants may take in small numbers during EROS activities are bottlenose dolphins (Tursiops truncatus), Atlantic spotted dolphins (Stenella frontalis), pantropical spotted dolphins (Stenella attenuata), Clymene dolphins (Stenella clymene), striped dolphins (Stenella coeruleoalba), spinner dolphins (Stenella longirostris), rough-toothed dolphins (Steno bredanensis), Risso's dolphins (Grampus griseus), melon-headed whales (Peponocephala electra), short-finned pilot whales (Globicephala macrorhynchus), and sperm whales (Physeter macrocephalus). NMFS received requests for LOAs from Energy Resource Technology GOM, Inc. (ERT) and Demex International, Inc. (Demex) for activities covered by EROS regulations.

#### Reporting

NMFS Galveston Laboratory's Platform Removal Observer Program (PROP) has provided reports for ERT's removal of offshore structures during 2012. Demex does not have reports for any operations to date. NMFS PROP observers and non-NMFS observers reported the following during ERT's EROS operations in 2012:

Company	Structure	Dates	Marine Mammals Sighted (Individuals)	Biological Impacts Observed to Marine Mammals
ERT	South Marsh Island Area, Block 15, Platform A	May 2 to 7, 2012	Bottlenose dolphins (99)	None
ERT	East Cameron Area, Block 185, Platform C	May 8 to 14, 2012	Spotted dolphins (28) Unidentified dolphins (6)	None
ERT	East Cameron Area, Block 184, Platform A	May 15 to 21, 2012	Bottlenose dolphins (25) Spotted dolphins (13)	None
ERT	Vermilion Area, Block 162, Platform C	May 20 to 23, 2012	Spotted dolphins (23)	None
ERT	Vermilion Area, Block 250, Platform I	May 23 to June 2, 2012	None	None
ERT	Vermilion Area, Block 182, Platform JA	June 3 to 8, 2012	Spotted dolphins (22)	None
ERT	South Timbalier Area, Block 63, Caisson #18	June 3 to 4, 2012 June 17 to 19, 2012	Bottlenose dolphins (51)	None
ERT	South Timbalier Area, Block 63, Caisson #23	June 5 to 8, 2012	Bottlenose dolphins (19)	None
ERT	Vermilion Area, Block 182, Platform JB	June 8 to 15, 2012	Spotted dolphins (22)	None
ERT	South Timbalier Area, Block 63, Caisson I	June 9 to 14, 2012	Bottlenose dolphins (22) Unidentified dolphins (50)	None
ERT	South Timbalier Area, Block 63, Caisson J	June 14 to 16, 2012	None	None
ERT	Ship Shoal Area, Block 223, Platform F	August 15 to 20, 2012	Bottlenose dolphins (23)	None
ERT	South Timbalier Area, Block 63, Caisson 21	August 21 to 22, 2012	None	None

Pursuant to these regulations, NMFS has issued LOAs to ERT and Demex. Issuance of the LOAs is based on a finding made in the preamble to the final rule that the total taking over the five-year period (with monitoring, mitigation, and reporting measures) will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on subsistence uses. NMFS will review reports to ensure that the applicants are in compliance with meeting the requirements contained in the implementing regulations and LOA, including monitoring, mitigation, and reporting requirements.

Dated: February 26, 2013.

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Helen M. Golde,  
Acting Director,  
Office of Protected Resources,  
National Marine Fisheries Service.

<FRDOC> [FR Doc. 2013-04791 Filed 2-28-13; 8:45 am]  
<BILCOD> BILLING CODE 3510-22-P

[FR Doc. 2013-04791 Filed 02/28/2013 at 8:45 am; Publication Date: 03/01/2013]